

§ 340.4

transportation of hazardous materials and or cargoes, subject to Department of Transportation exemptions.

(f) The Secretary shall notify FEMA of the intention to issue any directive granting priority for use or allocation of vessels, containers, chassis, or port facilities and services, and shall provide information copies of NSPOs and NAOs as required to the defense agency concerned, FEMA, the Interstate Commerce Commission and the Coast Guard.

(g) Defense agencies which foresee difficulty in meeting their needs for vessels employed in commercial shipping services, containers, chassis, or port facilities and services shall coordinate with MARAD, the Coast Guard, vessel operators, container suppliers, chassis suppliers, and port authorities concerned before the need arises. The Administrator, after Secretarial review, may issue planning orders for information and guidance of affected agencies confirming tentative arrangements to meet the defense agencies' needs. No action will be taken to give effect to those arrangements until NSPOs and NAOs are issued at the time the services, equipment, or facilities are required.

(h) Defense agencies shall pay for services covered by NSPOs and NAOs on the basis of commercial tariffs, or on the basis of contracts concluded between the operator interests and the defense agencies concerned, or on the basis of existing contracts where both parties so agree.

(i) Defense agencies shall be responsible for payment of costs arising from:

(1) Shifting ships to unoccupied berths for defense use;

(2) Discharging commercial cargo to free ships for defense use; and

(3) Such other costs as may be agreed between the defense agency and the provider of service.

(j) The provisions of this regulation shall apply to foreign vessels, containers, and chassis only when and to the extent that such vessels, containers, and chassis are available to the United States because of control by U.S. citizens (46 App. U.S.C. 802) or by provision of international agreements for use of shipping services and related resources for the common defense.

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(k) Recipients of NSPOs and NAOs shall notify the Administrator, without undue delay, when they cannot comply or are experiencing difficulty in complying with the provisions of the Orders.

§ 340.4 Shipping services.

(a) When a defense agency requires shipping services not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The type of service required;

(ii) The route over which priority of service is required;

(iii) The period during which priority of service is required; and

(iv) Justification for priority use of the requested service.

(2) The Administrator, pursuant to the circumstances specified in § 340.4(a)(1), shall identify vessel operators that can provide the necessary service and issue NSPOs in coordination with the Secretary to those operators directing that priority be given to the movement and delivery of the defense agency's cargo and/or passengers by the type of service specified in the NSPO during the specified period.

(3) Each vessel operator in receipt of an NSPO shall:

(i) Give precedence to the cargoes of the defense agency in provision of equipment, loading, ocean transport and delivery; and

(ii) Coordinate with other operators in receipt of NSPOs applicable to the same priority movement program to ensure movement of the defense agency's cargoes on first available sailings.

(b) When a defense agency has need for vessels employed in commercial service on a continuing basis for national defense operations for a specified period or for the duration of a defense emergency which they cannot obtain through established transportation procurement practices, the following procedures shall apply:

(1) The agency shall transmit to the Secretary, with a copy to the Administrator, a request specifying the kinds of services required, the arrangements under which the agency proposes that the services be acquired, managed and compensated, and justification for allocation of the required vessels.

(2) The Administrator, upon receiving guidance from the Secretary, shall identify vessel operators that can supply the requested services and issue NAOs to operators directing that specified vessels be made available for use of the defense agency for specified periods. As far as practicable, the economic impact will be balanced among operators.

(3) Each vessel operator in receipt of an NAO shall provide vessels in coordination with the defense agency as specified in the NAO.

§ 340.5 Containers and chassis.

(a) When a defense agency requires priority use of containers and/or chassis not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The route over which or the area in which priority use of containers and/or chassis is required;

(ii) The period during which priority use is required;

(iii) the approximate time-phased movement requirement in containers and/or chassis of specified sizes and types or in 20-foot equivalent units (TEU); and

(iv) Justification for priority use of containers and/or chassis.

(2) The Administrator pursuant to the circumstances in § 340.5(a)(1) shall:

(i) Identify container service operators capable of meeting the requirement; and

(ii) Issue NSPOs or NAOs in coordination with the Secretary to those container service operators, directing that priority be given to supply of containers and/or chassis against the defense requirement.

(3) Each container service operator in receipt of an NSPO shall:

(i) Coordinate with the defense agency on schedules for spotting empty containers and/or chassis and for movement of containerized cargoes; and

(ii) Supply containers and/or chassis to the defense agency in accordance with the defense agency's scheduling needs or supply the first available containers and/or chassis if those needs cannot be met.

(b) When a defense agency requires the allocation of containers and/or chassis on a continuing basis for national defense operations, the following procedures shall apply:

(1) They agency shall transmit to the Secretary, with a copy to the Administrator, request specifying:

(i) The number of containers and/or chassis required by type;

(ii) The general terms and conditions under which the agency proposes to acquire the needed containers and/or chassis and compensate the owners or operators;

(iii) The expected duration of the lease, if the containers and/or chassis are to be leased;

(iv) The locations at which the agency will take possession of the containers and/or chassis and the required delivery schedule; and

(v) Justification for allocation of containers and/or chassis.

(2) The Administrator in coordination with the Secretary shall identify container and chassis suppliers that can supply the required containers and/or chassis, and shall provide, so far as practicable, for balancing the defense agency's requirement against other requirements for containers and/or chassis so as to minimize disruption of inventory distribution, and shall issue NAOs to suppliers, directing the allocation of specified numbers of containers and/or chassis by type for exclusive use of the defense agency for a specified period.

(3) Each container and chassis supplier in receipt of an NAO shall deliver the containers and/or chassis specified in the NAO to the defense agency at the places and times specified in the NAO or separately agreed upon with the defense agency, under terms and